

1 The opinion in support of the decision being entered today was *not* written  
2 for publication in and is *not* binding precedent of the Board.

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4 UNITED STATES PATENT AND TRADEMARK OFFICE

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7 BEFORE THE BOARD OF PATENT APPEALS  
8 AND INTERFERENCES

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11 *Ex parte* ROBERT L. SNYDER

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14 Appeal 2007-1457  
15 Application 10/033,121  
16 Technology Center 3600

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19 Decided: April 27, 2007

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22 Before HUBERT C. LORIN, STUART S. LEVY, and ANTON W. FETTING,  
23 *Administrative Patent Judges*.

24 FETTING, *Administrative Patent Judge*.

25 DECISION ON APPEAL

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27  
28 STATEMENT OF CASE

29 This appeal from the Examiner's rejection of claims 1-21, the only claims  
30 pending in this application, arises under 35 U.S.C. § 134. We have jurisdiction  
31 over the appeal pursuant to 35 U.S.C. § 6 (2002).

32  
33 We AFFIRM.

The Appellant invented a self-service checkout system utilizing a component video monitoring system, including a component video camera to obtain pictures of items for purchase. Particularly, the self-service checkout system utilizes the component video camera to obtain digital pictures of produce being weighed for purchase during the weighing process (Specification 4). An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of operating a self-service checkout terminal comprising the steps of:

initiating a checkout transaction at the self-service checkout terminal;  
obtaining weight of a produce item via a scale of the self-service  
checkout terminal; and

acquiring a digital picture of the produce item via a component video camera of the self-service checkout terminal wherein the step of acquiring a digital picture is triggered by the step of obtaining the weight of the produce item.

This appeal arises from the Examiner's Final Rejection, mailed June 2, 2005. The Appellant filed an Appeal Brief in support of the appeal on June 7, 2006, and the Examiner mailed an Examiner's Answer to the Appeal Brief on September 13, 2006. A Reply Brief was filed on November 15, 2006.

## PRIOR ART

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Nishi	US 4,914,746	Apr. 3, 1990
Humble	US 5,426,282	Jun. 20, 1995
Nakamura	US 6,278,492 B1	Aug. 21, 2001

REJECTIONS

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as obvious over Humble and Nishi.

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as obvious over Humble and Nakamura.

The Examiner applied Humble in both rejections to show all of the claim limitations except for the use of a component video device, as contrasted with a generic video device. The Examiner applied Nishi and Nakamura each for their teachings of the advantages of a component video device species of the generic video device of Humble.

ISSUES

The issues pertinent to this appeal are

- Whether the art applied shows or suggests acquiring a digital picture triggered by the step of obtaining the weight of a produce item (All claims; Br. 9-14; Reply Br. 2-4)
- Whether the art applied shows or suggests waiting for a stable wait period of the produce item on the weight scale (Claims 7 and 21).

In particular, the Appellant contends that the trigger in Humble is a sensor, not a scale, that the Examiner has admitted the scale is not the trigger, and that the Examiner has misconstrued the law of open ended transitions such as “comprising” to read the triggering limitation out of the claim. The Appellant also argues that Humble teaches that the camera may be configured so that it does not require an image of the weight, or even that the weighing be done.

FACTS PERTINENT TO THE ISSUES

The following Findings of Fact (FF), supported by a preponderance of substantial evidence, are pertinent to the above issues.

01. Claim 1 has the limitation that “the step of acquiring a digital picture is triggered by the step of obtaining the weight of the produce item.”

02. Humble states that

When a product enters the security zone 38, a sensor 42 detects the product and commands the moving conveyor to stop at a point where the product is disposed on a weight scale 44. The weight scale 44 includes weighing means for *determining a weight of the product to an accuracy which complies with government standards*. The weight of the product is sensed and transmitted to a processor 48 for a price calculation as hereinafter described.

A camera means such as video camera 52 is disposed for capturing a video image of the product in the security zone 38. *The image (as well as the weight) may be recorded* when the transport is stopped, or may be recorded “on the fly.” The video image is either stored temporarily in a memory 54 or transmitted immediately to a video monitor 58 which is disposed for displaying the video image to one or more store personnel. [Emphasis added.]

(Humble, col. 3, l. 60 – col. 4, l. 8).

03. The above portion of Humble describes a camera taking a picture of an item and suggests including the weight of the item based on the output of a scale that the item is placed on.

04. Thus, the above portion of Humble suggests that, at least in such an embodiment as described and suggested, determining the weight would be a necessary condition to acquiring the image of the item.

1       05. To trigger is to set off or initiate<sup>1</sup>.

2       06. One event may initiate another event, which, in turn may initiate another  
3       event. In such a case, each of the first and second events may be said to  
4       trigger the third event.

5       07. In Humble, a sensor initiates the weighing, which in turn initiates the  
6       image capture.

7       08. Thus, Humble suggests acquiring a digital picture triggered by the step of  
8       obtaining the weight of a produce item.

9       09. The above portion of Humble also states that the weighing step meets  
10      governmental standards.

11      10. Governmental standards of weight require at least a minimum degree of  
12      accuracy and precision, which may only be met by waiting for transient  
13      movements to cease.

14      11. Thus, Humble describes weighing items and waiting for transient  
15      movements to cease.

16      12. A period for transient movements to cease may be characterized as a  
17      period for achieving stability.

18      13. Thus, Humble suggests waiting for a stable wait period of the produce  
19      item on the weight scale.

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<sup>1</sup> *American Heritage Dictionary of the English Language*, 4<sup>th</sup> Edition, 2000.

ANALYSIS

*Claims 1-21 rejected under 35 U.S.C. § 103(a) as obvious over Humble and Nishi.*

Based on the above Findings of Fact, we conclude that

- The art applied shows or suggests acquiring a digital picture triggered by the step of obtaining the weight of a produce item (FF 08)(All claims; Br. 9-14; Reply Br. 2-4)
- The art applied shows or suggests waiting for a stable wait period of the produce item on the weight scale (FF 13)(Claims 7 and 21).

As to the Appellant's contention that the trigger in Humble is a sensor, not a scale, that the Examiner has admitted the scale is not the trigger, and that the Examiner has misconstrued the law of open ended transitions such as "comprising" to read the triggering limitation out of the claim, we note that the Examiner apparently was simply acknowledging that the scale might be an intermediate trigger and not the initial trigger, but that even an intermediate trigger is still a trigger (FF 06).

As to Appellant's contention that that Humble teaches that the camera may be configured so that it does not require an image of the weight, or even that the weighing be done, we note that these are alternative embodiments, in addition to the embodiment in which the weight is recorded on the image, and therefore do not negate Humble's teachings of that embodiment.

The Appellant has argued the remainder of the claims based on these same issues, and so these claims are treated in a similar manner. The Appellant has not shown reversible error on the part of the Examiner. Accordingly we sustain the

1 Examiner's rejection of claims 1-21 under 35 U.S.C. § 103(a) as obvious over  
2 Humble and Nishi.

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4 *Claims 1-21 rejected under 35 U.S.C. § 103(a) as obvious over Humble and*  
5 *Nakamura.*

6 The Appellant has argued the claims in this rejection based on these same  
7 issues as to the teachings of Humble, and so these claims are treated in a similar  
8 manner. The Appellant has not shown reversible error on the part of the Examiner.  
9 Accordingly we sustain the Examiner's rejection of claims 1-21 under 35 U.S.C. §  
10 103(a) as obvious over Humble and Nakamura.

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12 DECISION

13 To summarize, our decision is as follows:

- 14 • The rejection of claims 1-21 under 35 U.S.C. § 103(a) as obvious over  
15 Humble and Nishi is sustained.
- 16 • The rejection of claims 1-21 under 35 U.S.C. § 103(a) as obvious over  
17 Humble and Nakamura is sustained.

1 No time period for taking any subsequent action in connection with this appeal  
2 may be extended under 37 C.F.R. § 1.136(a) (2006).

3 AFFIRMED  
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15 PAUL W. MARTIN  
16 NCR CORPORATION, LAW DEPT.  
17 1700 S. PATTERSON BLVD.  
18 DAYTON, OH 45479-0001  
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